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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Inventor

Serial No.

9739846159

Filing Date

Title

Group Art

Examiner

: Stephen M. REUNING

: 09/897,826

: 03 July 01

Candidate Chaser

2175

Samuel RIMMEL, Esq., M.B.A., P.E.

MAR 3 1 2003

Technology Center 2100

Commissioner of Patents and Trademarks
Box Petitions
Washington, DC 20231

PETITION

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PETITION'S OFFICE

Applicants respectfully requests that the Appeal in the captioned case be forwarded to the Board of Patent Appeals and Interferences without further delay.

STATEMENT OF FACTS

- 1. The captioned application is a continuation of parent application serial no. 08/984,650. The parent was filed 3 Dec 1997.
 - 2. On concluding the four-year prosecution of the parent application, the Examiner agreed that certain subject matter was patentable over the art of record.
 - 3. Applicant accordingly filed the immediate continuation application, claiming this subject matter.
 - These claims were, surprisingly, rejected.
 - 5. Applicant thus filed a Notice of Appeal together with an Appeal Brief. This was mailed on 19 Nov. 02, and acknowledged as received by the Office on 22 Nov. 03. A photocopy of the postcard receipt is attached.
 - 6. Since that time, the Appeal sat without further action.

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Albert M. FLEISCHNER, Ph.D. S.N. 09/832,213 Filed 11 April 2001

- 7. Accordingly, I spoke with the Examiner and, on 26 Feb 03, faxed a copy of the Appeal Brief to him. I enclose a copy of the receipt of this facsimile.
- 3. I have still not received any Reply. The M.P.E.P. requires a Reply Brief (if filed at all) be filed within two months of receipt of the Appeal Brief. The two-month deadline expired on 22 Jan. 03. At that time, the file should have been forwarded to the Board for resolution.

POINT TO BE REVIEWED

Whether the Appeal must be immediately forwarded to the Board for review.

ACTION REQUESTED

Applicant respectfully requests that the pending appeal be forwarded immediately to the Board.

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COPY

Albert M. FLEISCHNER, Ph.D. S.N. 09/832,213 Filed 11 April 2001

ENCLOSURES

The exhibits discussed and the appropriate fee are enclosed.

Respectfully submitted,

Mark POHL Esq., Reg.No. 35,325

25 March 2003

Pharmaceutical Patent Attorneys, LLC 55 Madison Avenue, 4th fl. (P 4014) Morristown, NJ 07960-6397

Direct (973) 984-0076

Mark.Pohl@LicensingLaw.Net

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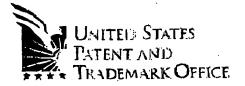
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09/897,826 Application Number TRANSMITTAL 03 July 01 Filing Date Stephen M. REUNING **FORM** First Named Inventor Group Art Unit 2175 (to be used for all correspondence after initial filing) Samuel RIMMEL Examiner Name Diedre Attorney Docket Number Total Number of Pages in This Submission **ENCLOSURES** (check all that apply) After Allowance Communication Assignment Papers (for an Application) Fee Transmittal Form to Group Appeal Communication to Board Fee Attached Drawing(s) of Appeals and Interferences Appeal Communication to Group I inensing-related Papers Amendment / Reply (Appeal Notice, Brief, Reply Brief) Petition After Final Proprietary information Petition to Convert to a Provisional Application Affidavits/declaration(s) Status Letter Power of Attorney, Revocation Change of Correspondence Address Other Enclosure(5) (ploaco Extension of Time Request identify below): RECEIVED Terminal Disclaimer Express Abandonment Request Request for Refund MAR 3 1 2001 Information Disclosure Statement CD, Number of CD(s). Technology Center 2100 Certified Copy of Priority Document(s) Remarks These papers are being submitted by facsimile with a Response to Missing Parts/ Incomplete Application confirmation copy by First Class Mail. Response to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Pharmaceutical Patent Attorneys, LLC Hirm Pohl & Assoc. Individual name Signature

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Per No. 35,325

Date 25 March 03

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*for number previously paid, If greater; For Reissues, see above

Co	emplate if Known	
Application Number	09/897,826	
Filing Date	03 July 01	
First Named Inventor	Stephen M. REUNING	CAV
Examiner Name	Samuel RIMMEL	
Group Art Unit	2175	MA
Attorney Docket No.	Diedre	

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(\$) 130.00 TOTAL AMOUNT OF PAYMENT PETTHONS OFFICE FEE CALCULATION (continued) METHOD OF PAYMENT 3. ADDITIONAL FEES The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to: Deposit Entity Entity Fee Paid Fee Foo Fee Doscription Number (\$) Code (\$) ด ดก Denosil Surcharge - late filling (ee or oath 130 ZÚ5 85 Account Name 0.0050 227 Surcharge - late provisional filling fee or 127 Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 cover sheet 0.00 Non-English specification 130 139 130 139 Applicant claims small entity status 0.00 For filling a request for ex parte reexamination See 37 CFR 1.27 2.520 147 2,520 Requesting publication of SIR prior to Examiner action Payment Enclosed: 112 920 0.009201 112 Credit card Other 0.00 Requesting publication of SIR after Examiner action 113 1.8401 113 1.840 FEE CALCULATION 0.00 Extension for reply within first month 110 215 55 1. BASIC FILING FEE 0.00 Extension for reply within second month 116 216 Large Entity Small Entity 0.00 217 460 Extension for regly within third month 920 Fee Description Foo Foo Code (\$) Fee Pald Code (5) 0.00 Extension for reply within fourth month 218 720 118 1 440 101 740 201 370 Utility filing fee 0.00 0.00 Extension for reply within fifth month 228 980 128 1 960 106 330 206 165 Dosign filing fee 0.00 QQ.Q 320 219 160 Notice of Appeal 107 510 207 255 Plant Illino fee 0.00 Filling a brief in support of an appeal 220 160 370 Reissue filing fee 1D8 740 208 0.00 280 221 Request for oral hearing Provisional filing fee 150 214 0.00 Petition to institute a public use proceeding 1,510 138 1,510 138 0.00 SUBTOTAL (1) (\$) 0.00 Petition to revive - unavoidable 140 110 240 55 0.00 2. EXI'RA CLAIM FEES Petition to revive - unintentional 141 1,280 241 640 Fee from 0.00 Extra Claims Utility issue fee (or reissue) Fee Paid 142 1 280 242 840 <u>below</u> 9.00 0.00 ַטט.טן Design Issue fee Tolal Claims 143 460 243 230 0.00 Independent Claims 3 x 42.00 Plant issue fee - 3** = 8 144 620 244 310 130:00 0.00 Multiple Dependent 130 122 130 Petitions to the Commissioner 0.00 50 123 50 Processing (se under 37 CFR 1.17(q) 123 0.00 Large Entity Small Entity Submission of Information Disclosure Stat 126 180 126 180 Fee Description Fee Fee Recording each patent assignment per property (times number of properties) Code (\$) 0.00 40 581 40 Claims in excess of 20 18 203 ġ .00 Filling a submission after final rejection (37 CFR § 1.129(a)) 740 246 202 42 146 370 84 Independent claims in excess of 3 102 104 280 204 140 Multiple dependent claim, if not paid For each additional invention to be examined (37 CFR § 1.129(b)) 0.00 149 740 249 370 42 "* Ruissue independent claims 109 209 over original patent 0.00 Request for Continued Examination (RCE) 740 279 179 370 110 18 210 Reiggus claims in excess of 20 Request for expedited examination of a design application and over original patent 0.00 900 169 0.00 (\$) 0.00 Other fee (specify) SUBTOTAL (2) 130.00 *Reduced by Basic Filing Fee Paid SUBTOTAL (3)

SUBMITTED BY			Complete (if applicable)		
Name (Print/Type)	Mark POHL, Esg.	Registration No. 35,325	Telephone	(973) 984-0076	
Signature	1 / WU IOV		Data	25 March 03	

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SCREENING OF INCOMING PAPERS Date: Reviewer: APPLICATION NO CODE PETITION TYPE PETITION TYPE CODE R28c Petition-----321/320 R137(a) Petition----- -501 R47 Petition----- 313 R137(a) Petition -----509 R53(e) Petition-----408 (Issue Fee/Dwgs) R53 (R62 filing date)----410 R137(b) Petition-----502 R10 Petition-----411 R137(b) Petition----510 Lost Application-----412 (Issue Fee/Dwgs) R78(a)(3) Petition-----535 R137(f) Petition-----536 R78(a)(6) Petition-----535 R182 Petition----519 R55(c) Petition-----535 R183 Petition-----503 R314 Petition-----508 R378(b) Petition-----532 R55(a) Petition-----507 R378(c) Petition-----533 Pet. W/D Abn-----525 R377 Petition-----521 R705(b) PTA-Bef iss----550 R3.81(b) Petition-----523 R705(d) PTA-Aft iss-----551 R181 Petition-----515 R705(c)PTA-SpiteDueCare-552 R181 Petition-----504 Other 2. LIST PAPERS FILED WITH PETITIONS Associate POA **CPA** PreAmdt/Amdt Terminal Disclaimer RCE Request CofC Change of Address IDS. Reply/Arguments Revocation/Poa 129(a) Submsn Election **Priority Documents** Issue Fee Notice of Appeal Oath/Decl. & POA Drawings Brief (3) Rescind Non-Pub Reg. Rule 312 Amdt Reply Brief Statement 3.73(b) Ext Time () Declaration R132 Other Papers 3. Is paper a petition to withdraw holding of abandonment: yes If so, send paper and/or file to appropriate location (Note: remove any flag set first): a. Nonreceipt of action from TC or assertion that reply was timely filed; Send paper to TC b. Nonreceipt of Missing Parts Notice or assertion that reply was timely filed: Send paper to DIRECTOR -OIPE - -CP2-7D25 (PH: 308-0910) c: Assertion of timely payment of issue fee and/or submission of drawings: Send petition to Office of Publications: ATTN: Tom Hawkins d. Other If not handled in Office of Petitions, send paper to appropriate location. 5. Is petition accompanied by assignment papers, fee address, or other paper which needs to be sent to another location? ____ yes ____ no If so, make copy of assignment papers, fee address, or other paper; mail original to proper location and place copy in file with an indication that the original paper(s) has been forwarded to the appropriate

location (Assignment Branch; Maintenance Fee Division, etc.)

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Date 25 March 03

		Application Number	09/897,826		
TRANSMITTA	L	Filing Date	03 July 01		
FORM		First Named Inventor	Stephen M. REUNING		
(to be used for all correspondence after initi	al filing)	Group Art Unit	2175		
		Examiner Name	Samuel RIMMEL		
Total Number of Pages in This Submission		Attorney Docket Number	Diedre		
		OSURES (check	all that apply)		
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Firm or Individual name Pliarmaccutical Pat Pohl & Assoc.	ent Atto	meys, LLC	FAX RECEIVED		
Signature Y	1		MAR 2 5 2003		

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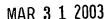
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Patent fees are subject to annual revision.

(\$) 130.00

Co	omplete if Known			
Application Number	09/897,826			
Filing Date	03 July 01			
First Named Inventor	Stephen M. REUNING			
Examiner Name	Samuel RIMMEL			
Graup Art Unit	2175 FAX HEUE			
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TOTAL AMOUNT OF PAYMENT Altorney Docket No. 2003FEE CALCULATION (continued) METHOD OF PAYMENT **ADDITIONAL FEES** PETITIONS OFFICE The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to: Small Deposit Entity Entity Account Føe Paid Fee Description Number Code (\$) (\$) Code 0.00 Deposit Account Gurcharge - late filing fao or eath 130 205 65 105 0.00Name Surcharge - late provisional filing fee or 25 50 227 コクア cover sheet Charge Any Additional Fee Required 0.00 Under 37 CFR 1.16 and 1.17 Non-English specification 139 **"130** 139 130 Applicant claims small entity status. 0.00 147 2,520 For filing a request for ox parte reexamination Spc 37 CFR 1.27 147 2.520 Payment Enclosed: Requesting publication of SIR prior to 0.00 250, 112 9201 Examiner action Credit card: Other 0.00 Requesting publication of SIR after 113 1.8401 113 Examiner action FEE CALCULATION 0.00 Extension for reply within lirst month 110 215 55 115 0.00 1. BASIC FILING FEE Extension for reply within second month 116 400 216 200 Large Entity Small Entity 0.00 Extension for reply within third month 920 217 460 Fee Description Fee Paid 0.00 Code (\$) Codo (\$) Extension for raply within fourth month 118 1.440 218 720 740 201 370 Utility filing fee 0.00 0.00 228 980 Extension for roply within fifth month 1.960 106 330 206 165 0 00 0.00 160 Notice of Appeal-320 219 119 107 510 207 255 Plant filing fee 0.00 Filing a brief in support of an appeal 120 320 220 160 Reissue filing fcc 208 370 108 740 0.00 280 221 140 Request for oral hearing Provisional liling fee 80 160 0.00 Petition to institute a public use proceeding 1,510 138 1,510 0.00 SUBTOTAL (1) (\$) 0.00 Patition to revive - unavoidable 110 240 140 0.00 Pelition to revive - unintentional 2. EXTRA CLAIM FEES 1.28Ú 241 640 0.00 Utility issue fee (or reissue) 1,280 242 640 142 Extra Claims 9.00 l Fee 5 0.00 Design issue foo 0 143 460 243 230 Total Claims Independent -20" = 0.00 <u> 10.00</u> Plant issue fee X 144 620 244 310 - 3** = 130.00 0.00 122 130 122 130 Petitions to the Commissioner Multiple Dependent 0.00 Processing for under 37 CFR 1.17(q) 123 50 123 50 0.00 Submission of Information Disclosure Stint Large Entity Small Entity 126 180 126 180 Fee Description 0.00 Recording each patent assignment por Code (\$) Code (\$) 40 581 . 40 581 property (littles number of properties) Claims in excess of 20 203. 9 103 18 0.00 Filing a submission after final rejection (37 CFR § 1.128(a)) 740 246 370 Independent claims in excess of 3 146 102 84 202 42 280 2014 140 Multiple dependent claim, if not paid 104 For each additional invention to be 740 370 0.00examined (37 CFR § 1.129(b)) " Reissus independent claims 209 42 109 Ř4 over original patent 0.00 Request for Continued Examination (RCE) 740 279 370 179 110 210 18 and over original patent Request for expedited examination 0.00 900 169 900 169 of a design application 0.00 (\$) 0.00 Other fee (specify) SUBTOTAL (?) 130.00 (\$) SUBTOTAL (3) *Reduced by Basic Filing Fee Paid or number previously paid, if greater; For Reisaues, see about

SUBMITTED BY		Complete (il upplicable)		
Name (Print/Type)	Mark POHL, Esp.	Registration No. 35,325	Тејерпопе	(973) 984-0076
Signature	1 YVV DV	M. 1 . 3	Date	25 March 03

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